Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Carrier Current Systems, including)	ET Docket No. 03-104
Broadband over Power Line Systems)	
)	ET Docket No. 04-37
Amendment of Part 15 regarding new)	
requirements and measurement)	
guidelines for Access Broadband over)	
Power Lines Systems)	

OPPOSITION COMMENT FILED IN RESPONSE TO UPLC (and others) REQUEST FOR RECONSIDERATION OF 30 DAY NOTIFICATION RULE

UPLC and other entities have requested reconsideration of Section 15.615(a), requiring Access BPL operators to post information to the BPL database within 30 days prior to initiation of service.

The basis of the request is that the 30-day advance notification might provide competitors with an advantage in such areas as marketing, pricing, etc. Section 15.615(a) requires that:

> General administrative requirements.
>
> (a) Access BPL Database. Entities operating Access BPL systems shall supply to an industry-recognized entity, information on all existing Access BPL systems and all proposed Access BPL systems for inclusion into a publicly available data base, within 30 days prior to initiation of service.

Apparently, the parties who make this argument believe installation, marketing, and operation of a fully functional Access BPL system can appear overnight. This is hardly the case. In almost every deployment to date, the BPL provider has had to sign contracts and negotiate with either power companies or local municipalities months in advance. Licenses must be obtained, and equipment must be installed and tested to comply with the new regulations, which takes time and is in full view of the general public and the employees of other service providers. A 30-day notification rule before service begins in no way provides competitors with an advantage, as competitors are clearly able to see the intentions of the BPL provider months in advance.

At any rate, perhaps the best competitive intelligence against a potential adversary comes from the adversary itself. Are we really expected to believe that BPL providers are not going to do any marketing, advertising, or equipment testing in the 30 days preceding the activation of service? Of course they are.

By their own actions, therefore, BPL providers can reasonably expect to provide competitive intelligence to other service providers, so the whole “competitive intelligence protection” argument is moot.

In other words, BPL providers cannot expect to be protected from another party’s examination when they, by their own actions, make the intent and objective of their activities publicly known.

The primary reason that the Commission imposed this rule was to provide concerned parties with the ability to do “before and after” measurements of the noise spectrum. The rule, if upheld, would provide spectrum users with technical information that would be critical if interference is suspected. The idea that the 30-day rule could be used for competitive advantage is sheer fantasy, as what is already in the public eye by the time of activation is more than enough to deduce the BPL providers’ intentions

Therefore, the Commission should let the aforementioned rule stand.

Sincerely,

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